

STATE OF MICHIGAN
COURT OF APPEALS

PULTE LAND COMPANY, LLC and
MARGARET BRECHTING,

Plaintiffs-Appellees/Cross-
Appellants,

v

ALPINE TOWNSHIP,

Defendant,

and

CHRIS BRECHTING,

Intervening Defendant-
Appellant/Cross-Appellee.

UNPUBLISHED
September 12, 2006

No. 259759
Kent Circuit Court
LC No. 02-008377-CZ

PULTE LAND COMPANY, LLC and
MARGARET BRECHTING,

Plaintiffs-Appellees,

v

ALPINE TOWNSHIP,

Defendant-Appellee,

and

CHRIS BRECHTING,

Intervening Defendant-Appellant.

No. 261199
Kent Circuit Court
LC No. 02-08377-CZ

Before: Davis, P.J., and Sawyer and Schuette, JJ.

SCHUETTE, J. (*concurring*).

I concur in the decision reached by my distinguished colleagues in this matter, but I write separately to express my concerns in several areas.

I agree with the majority opinion that a trial court may not engage in judicially rezoning private property. *Schwartz v City of Flint*, 426 Mich 295, 306-310; 395 NW2d 678 (1986). Rezoning of property is strictly the responsibility of the legislative branch of government, not the other branches of our government. *Id.*

The partial consent judgment agreed upon between plaintiff and defendant Alpine Township contained language which in essence overrides the referendum which prohibited changing the zoning classification of the property in question from agricultural use. The partial consent judgment also included language declaring that the consent judgment would become void if the ongoing litigation between intervening defendant and plaintiff and defendant resulted in an outcome contrary to the terms of the agreement. At oral argument, counsel for intervening defendant did not seem disturbed that this consent judgment overturned the election of the majority of the voters in Alpine Township. Elections have meaning and elections have consequences. The referendum held in Alpine Township in 2002, was an expression by the majority of the voters saying “no” to a zoning change and that the decision of the Township Board to rezone farmland to residential use had insufficient public support. Subsequently, the consent judgment agreed to by a very few people changed the election result voted upon by a great many people. Altering the outcome of an election would seem to pose serious constitutional challenges. However, because the intervening defendant chose not to argue vigorously and to raise these issues, we need not address them at this time.

/s/ Bill Schuette